

LAW NO. 08/L-188

**ON AMENDING AND SUPPLEMENTING THE CRIMINAL CODE NO. 06/L-074 OF THE
REPUBLIC OF KOSOVO**

The Assembly of the Republic of Kosovo;

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves:

**LAW NO. 08/L-188 ON AMENDING AND SUPPLEMENTING THE CRIMINAL CODE NO. 06/L-
074 OF THE REPUBLIC OF KOSOVO**

**Article 1
Purpose**

The purpose of this Law shall be to amend and supplement the Criminal Code No. 06/L-074 of the Republic of Kosovo (hereinafter "the Code").

Article 2

After paragraph 2. of Article 59 of the Code, new paragraph 2a shall be added as in the following:

2a. In addition to the punishments provided in this Article, for the criminal offense of rape and domestic violence accessory punishments are also:

2.a.1. prohibition of the purchase at auctions of sale of public properties, public assets or licenses granted by a public authority in any service from three (3) to ten (10) years;

2.a.2. prohibition of applying as a strategic investor and any other form of benefiting from the privileges granted by the applicable legislation from three (3) to ten (10) years.

Article 3

In Article 59 of the Code, after sub-paragraph 2.8, two new sub-paragraphs 2.9. and 2.10. shall be added with the following content:

2.9. prohibition of running for public positions;

2.10. prohibition of employment in public sector.

Article 4

After paragraph 1. of Article 60 of the Code, new paragraph 2. shall be added as in the following:

2. The court shall prohibit the right to run for any public position from three (3) to ten (10) years to a person who is found guilty of the criminal offence of rape and domestic violence.

Article 5

After Article 62 of the Code, two new Articles 62A and 62B shall be added with the following content:

Article 62A

The court shall prohibit employment in the public sector at all levels, from one (1) to five (5) years, to a person who is found guilty of the criminal offence of rape.

Article 62B

The court shall prohibit the right to drive a vehicle in any category, from one (1) to five (5) years, to the person who has been found guilty of the criminal offence of rape at the time when he/she was practicing the driving profession.

Article 6

Article 108 of the Code, sub-paragraph 1.1, shall be reworded as in the following:

1.1. the criminal offenses provided for in Articles 142-147, 151-154, 158, 159, 160-163, 165, 167-169, 232, 234, 239, 267-274, 287, 288, 296-298, 324 and 325 of this Code; and

Article 7

Article 232 of the Code shall be deleted.

Article 8

Article 327 of the Code shall be deleted.

Article 9

Article 336 of the Code shall be deleted.

Article 10

Article 183 of the Code shall be reworded as in the following:

1. Whoever sexually harasses another person, in particular a person who is vulnerable due to age, illness, disability, addiction, pregnancy, a severe physical or mental disability, shall be punished by a fine or imprisonment of up to three (3) years.

2. Sexual harassment shall mean any form of unwanted verbal, non-verbal or physical conduct of a sexual nature which aims at or effectively constitutes a violation of the dignity of a person, and creates an intimidating, hostile, degrading or offensive environment.

3. When the offence provided for in paragraph 1. of this Article is committed by a perpetrator who is a teacher, a religious leader, a health care professional, a person entrusted with such person's upbringing or care or otherwise in a position of authority over the person, the perpetrator shall be punished by imprisonment of one (1) to five (5) years.

4. Whoever sexually harasses a person under the age of ten (10) or a vulnerable person under the age of fifteen (15) shall be punished by imprisonment of three (3) to eight (8) years.

5. When the offence provided for in this Article is committed with a weapon, a dangerous instrument or another object capable of causing grievous bodily injury or serious impairment to mental or physical health, the perpetrator shall be punished by imprisonment of five (5) to ten (10) years.

6. The perpetrator of such offence against a child, shall be prohibited by the court to exercise the profession or activity related to working with children.

7. The criminal offence referred to in paragraph 1., 2. and 3. of this Article shall be initiated following a motion.

Article 11

After Article 236 of the Code, a new Article 236/A shall be added, as in the following:

Article 236/A Virginity testing

1. Whoever induces or obliges another person to perform an examination for the purpose of virginity testing shall be punished by a fine and imprisonment of up to one (1) year.

2. Whoever acting contrary to paragraph 1. of this Article performs medical testing or examination for the purpose of virginity testing shall be punished by a fine and imprisonment from one (1) to three (3) years.

3. When the criminal offense referred to in this Article is committed in one or more of the following circumstances, the perpetrator shall be sentenced by imprisonment of three (3) to seven (7) years:

3.1. when the victim is under eighteen (18) years of age;

3.2. when the offense was committed with serious threat or threat to use violence;

3.3. when the offense was committed jointly by more than one person;

3.4. when the perpetrator has taken advantage of the situation in which the person is vulnerable and his safety is at risk;

3.5. when the offense was committed by a health professional.

4. An attempt to commit a criminal offense from paragraph 1. and 2. of this Article is punishable.

Article 12

Chapter XXI of the Code shall be amended as in the following: "GENDER BASED CRIMINAL OFFENCES AGAINST MARRIAGE AND AGAINST THE FAMILY".

Article 13

After Article 248 of the Code, new paragraph 248/A shall be added as in the following:

Article 248/A Violence against women in public life

1. Whoever exerts deliberately, to intimidate or force them to act against their will, physical, psychological, sexual, or economic violence, in a direct or indirect form, against women exercising public functions or candidates for the exercise of public functions shall be punished by fine and imprisonment from six (6) months to three (3) years.

2. When the criminal offence from paragraph 1. of this Article is committed in an organized manner, it shall be considered an aggravating circumstance.

Article 14

After Article 277 of the Code, the new Chapter shall be added as in the following:

CHAPTER XXIV/A A CYBER CRIMES

Article 277/A

Computer distribution of pro-genocide or crimes against humanity materials

Whoever offers to the public or deliberately distributes to the public, through computer systems, materials that deny, significantly minimize, reason or justify the criminal offence of genocide or crime against humanity, shall be punished by imprisonment from three (3) to six (6) years.

Article 277/B

Racism and xenophobia motivated threats through the computer system

Whoever seriously threatens to kill or seriously injures one or more persons, through computer systems, due to the national or ethnic origin, race or religion, shall be punished by imprisonment from one (1) to three (3) years.

Article 277/C

Distribution of racist or xenophobic materials via computer system

Whoever offers in public or deliberately distributes in public, through computer systems, materials with racist or xenophobic content shall be punished by a fine or imprisonment from six (6) months to two (2) years.

Article 277/D

Unauthorized computer access

1. Whoever, in an unauthorized manner, enters in a part or the whole of a computer and information system, violating security measures, for the purpose of obtaining computer data or other illegal purposes or in connection to a computer system that is related to another computer system, shall be punished by a fine or imprisonment from one (1) to three (3) years.

2. Whoever, in an unauthorized manner and with the intention to unlawfully gain material benefit, for himself or another person or to cause damage to another person, changes, publishes, deletes, disposes or destroys data or computer programs or in any other way enters to a computer system of another, shall be punished by fine or imprisonment from one (1) to three (3) years.

3. When this offence is committed in the military computer systems and information, national security, public order, civil defense, health or any other computer system of public importance, it shall be punishable by imprisonment of not less than three (3) years.

4. For the purpose of this Article, Unauthorized Access shall be considered:

4.1. actions of a person who is not authorized under the law or the contract;

4.2. actions of a person that exceeds the limits of authorization;

4.3. actions for which there is no permission from the competent and qualified person, according to the law, to use, administer or control the computer system or to conduct scientific research in a computer system.

Article 277/E
Unlawful interception of computer databases

1. Whoever uses, without authorization, technical equipment or computer program to intercept non-public transmissions of computer databases, from or within a computer and information system, including electromagnetic emissions from a computer system carrying computer data, shall be punished by imprisonment from one (1) up to five (5) years.

2. When this offence is committed within computer and information systems of the military, national security, public order, civil defence or any other computer system of public importance, it shall be punishable by imprisonment of not less than five (5) years.

Article 277/F
Impeding the operation of computer and information systems

1. Whoever creates serious and unauthorized obstacles to impair the operation of a computer and information system, by inserting, damaging, distorting, changing and deleting data or making them unreadable, shall be punished by imprisonment from one (1) to five (5) years.

2. When this offence is committed in the computer and information systems of the military, national security, public order, civil defence, health or any other computer system of public importance, it shall be punishable by imprisonment of not less than five (5) years.

Article 277/G
Misuse of computer equipment and programs

Whoever produces, possesses, sells, offers for use, distributes or in any other form makes available any malicious computer hardware, software or code, a computer password, an access code or such similar data, which is created or adapted for entering a computer system or its part thereof, with the purpose of committing criminal offences provided for in Article 277/D, 277/E and 277/F of this Law, shall be punished by imprisonment from one (1) to five (5) years.

Article 277/H
Theft of identity and credentials

1. Whoever, during and in conjunction with any other criminal offence, intentionally transfers, possesses or uses, without legal authorization, another person's identification data, access data, bank data or telecommunications identification data, through a computer system, shall be punished by imprisonment from one (1) to three (3) years.

2. However processes, keeps, sells, offers for use, distributes or in any other form makes the data available according to paragraph 1. of this Article shall be punished by imprisonment from six (6) months to five (5) years.

3. For the purpose of this Article, the expression "Identification data" shall mean any name or number that can be used, alone or in conjunction with any other information, to identify a particular individual, including name, date of birth, driving license or identification number, passport number, identification number of the employer or taxpayer, the health insurance number or any name and unique identification number assigned by any institution or created by such person himself/herself for the purpose of identifying and determining the authenticity of an individual which are created and stored in electronic form.

4. An attempt to commit the criminal offense provided for in paragraph 1. of this Article shall be punishable.

Article 277/I**Materials containing sexual exploitation and abuse of children**

1. Whoever uses or involves children to produce materials containing sexual exploitation and abuse of children, whether with or without physical contact, shall be punished by imprisonment from five (5) to fifteen (15) years.
2. Whoever sells, distributes, promotes, displays, transmits, offers or makes available materials containing sexual exploitation and abuse of children through a computer system, shall be punished by imprisonment of three (3) to ten (10) years.
3. Whoever provides for himself/herself or another person or possesses materials containing sexual exploitation or abuse of children, shall be punished by a fine and imprisonment from one (1) to five (5) years.
4. An attempt to commit the criminal offense provided for in this Article shall be punishable.
5. For the purposes of this Article, the expression "materials containing sexual exploitation and abuse of children" shall mean the actual display through videos or photos, including the means of information and communication technology, of:
 - 5.1. a child engaging in sexually explicit conduct, whether real or simulated; or
 - 5.2. genitals of a child for primarily sexual purposes.

Article 277/J**Computer forgery**

1. Whoever inserts, changes, deletes or hides computer data, without the right, for the creation of false data, with the aim of presenting and using them as authentic, regardless of whether the data generated is directly readable or understandable, shall be punished by imprisonment from six (6) months to three (3) years.
2. When this offence is committed by a person who is responsible for the storage and administration of computer data or in cooperation, it shall be punishable by imprisonment of not less than three (3) years.
3. For attempts to commit the criminal offence referred to in paragraph 1. of this Article, the perpetrator shall be punished by imprisonment from three (3) months to one (1) year.

Article 277/K**Computer Fraud**

1. Whoever inserts, changes, deletes or hides computer data or interferes with the operation of a computer system, with the purpose of providing himself/herself or another party, by fraud, an unfair economic benefit or causing another party reduction of property, shall be punished by imprisonment from one (1) to five (5) years.
2. When this offence is committed as a member of the group, it shall be punishable by imprisonment of not less than five (5) years.
3. For attempts to commit the criminal offence referred to in paragraph 1. of this Article, the perpetrator shall be punished by imprisonment from three (3) months to one (1) year.

Article 277/L
Confiscation of electronic equipment

Electronic equipment and programs used to commit criminal offences under this Chapter, shall be confiscated according to the Criminal Procedure Code.

Article 15

After paragraph 4. of Article 343 of the Code, a new paragraph 5. shall be added with the following text:

5. A veterinarian or an authorized assistant of a veterinarian who, illegally euthanizes an animal, shall be punished by a fine or by imprisonment of up to six (6) months.

Article 16

1. Article 346 paragraph 1. and 3. of the Criminal Code, shall be reworded as in the following:

1. Whoever maltreats an animal or engages in any sexual act with an animal for a sexual purpose, shall be punished by a fine or imprisonment of up to one (1) year.

3. Whoever organizes, finances or hosts animal fights between animals of the same or different species or organizes or partakes in betting in such fights shall be punished by a fine or by imprisonment of up to two (2) years.

2. After paragraph 3. of Article 346 of the Code, a new paragraph 3a shall be added as in the following:

3.a. Whoever breeds, sells or exercises animals for purposes referred to in paragraph 3. of this Article shall be punished by a fine or by imprisonment of up to six (6) months.

3. After paragraph 7. of Article 346 of the Code, the following paragraphs shall be added:

8. Whoever produces, imports, preserves, trades, promotes, exhibits, offers, displays or makes available sound, film or video recordings, or other products in which are presented the sexual acts or extreme violence against animals without reasonable scientific or cultural grounds, shall be punished by fine or imprisonment of up to one (1) year.

9. Whoever buys or for his/her own consumption produces, imports, preserves, appropriates, orders or owns items, or performances defined in paragraph 9. of this Article, containing sexual acts, or violent acts involving animals, shall be punished by fine or imprisonment of up to one (1) year.

10. Whoever commits criminal offences referred to in paragraphs 1., 2., 3., and 4. of this Article, shall be prohibited from keeping animals in their ownership or care.

11. Animals referred to in paragraphs 1., 2., 3. and 4. of this Article shall be confiscated.

Article 17
Entry into force

This Law shall enter into force fifteen (15) days after its publication in the Official Gazette of the Republic of Kosovo.

Law No. 08/L-188
26 October 2023

Promulgated by Decree No. DL-177/2023 dated 15.11.2023 President of the Republic of Kosovo Vjosa Osmani-Sadriu